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April 12, 2002

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RE: ***Wallula Draft Environmental Impact Statements - Comments***

Dear Mr. Fiksdal:

Counsel for the Environment (CFE) provide the following comments on the on the draft environmental impact statement (DEIS) for the Wallula Power Project. CFE appreciate the opportunity to comment.

***Chapter 1* Summary**

1.2.2 Power plant Purpose and Need

See comments for section 2.1.2 below. This section also notes that Governor Locke issued an emergency energy proclamation. However, the section fails to mention that after two additional extensions to the order through October 22, 2001, the Governor issued no further extensions to the proclamation. There is therefore no executive order or proclamation regarding any energy emergency in effect. 19-1

1.4.1.2 Wallula Project and Related Facilities

In the description of the generation plant facilities there is mention of backup systems to maintain overall plant reliability. These backup systems are not described. The summary should describe the type of backup system intended to be utilized. 19-2

1.6 Summary of Potential Impacts and Mitigation Measures

On page 1-7, Applicant's proposed purchase of up to 1,300 acres of farmland and conversion to dryland grasses is described as an innovative mitigation measure. In actuality, because the project site is located in an area that is currently listed as a serious non-attainment area for PM10 (particulate matter less than 10 microns) emissions by the U.S. Environmental Protection Agency (EPA), such an offset is a legal requirement under the Clean Air Act in order for this proposed facility to be built in this serious non-attainment area. Therefore, it is incorrect to refer to this proposed purchase as mitigation, innovative or otherwise. 19-3

In addition, this section mentions a payment by the project proponent to the Department of Ecology in order to benefit in-stream flows in the Walla Walla River for mitigation purposes. This statement is not accurate. Currently at the Department of Ecology there is a rather long backlog of water right transfer applications. The proponents simply made a business decision to jump to the head of that transfer line by providing what Ecology determined to be a "significant environmental benefit." Thus, if a transfer applicant wishes to have their application processed out of their normal turn, they must meet a legal requirement, which is to provide what Ecology deems to be a "significant environmental benefit." As with the legal requirement to offset PM10 emissions discussed above, it is also incorrect here to refer to this legal requirement as "mitigation." This issue is also addressed on page 6 of these comments in reference to section 3.3 of the DEIS. 19-4

Table 1-1 Potential Impacts of Wallula Power Project

Air Quality - There is no mention of carbon dioxide (CO2) emissions and/or other greenhouse gas emissions within the project specific impacts. While CO2 emissions are discussed in later portions of the DEIS (including cumulative impacts), the project's significant emissions of CO2 necessitate that this be included in Table 1.1. 19-5

1.7 Cumulative Impacts

This issue is more fully discussed in section 3.17 of the DEIS and this letter provides comments on that section. We note here that while this section states that this project's greenhouse gas (GHG) emissions would represent 0.06% of United States GHG emissions, the section provides no analysis of how much of a decrease in United States GHG emissions (or in the state of Washington) would result if an alternative or renewable energy facility were built instead of a fossil fuel facility. 19-6

1.8 Issues to be Resolved

The DEIS lists several issues critical to the environmental interests of the people of Washington that remain unresolved. Therefore this DEIS makes no conclusions as to the environmental impacts of those issues. CFE provide comments on the water rights and PM10 issues elsewhere in these comments. We note that here the DEIS correctly observes that the project has a legal requirement to offset its PM10 emissions and is therefore proposing to purchase farmland. It is also our understanding that any draft PSD permit will undergo public review and comment prior to any final decisions by the Energy Facility Site Evaluation Counsel (EFSEC). 19-7

***Chapter 2* Proposed Action and Alternatives**

2.1.2 Purpose and Need

This section, regarding the need for the facility, does not fully address the multifaceted nature of the need equation. While it is true that the Western Systems Coordinating Council and the Northwest Power Planning Council (NWPPC) did forecast a shortfall in projected energy supply in the Northwest, at least one of these entities, NWPPC, has substantially modified that 19-8

forecast due to conservation efforts and new generation that has already come on line or is under construction. This modification reflects the boom and bust nature of the newly restructured power markets of the west. In Professor Andrew Ford's discussion paper entitled, *Simulation Scenarios for the Western Electricity Market* (November 2001) (available from CFE upon request), he suggests that the problem of boom and bust in western electricity markets could be a fundamental and persistent problem in a deregulated market. Throughout the West a flurry of new power projects have been proposed since the electricity crisis of 2000. Thus, as a result of the electricity forecast referenced in the DEIS, a boom in power generation proposals has occurred. This recent boom in both proposed facilities and in construction should be part of the need equation addressed in the EIS for this project. As currently written this section only addresses half of the equation. Additionally, the section seems to assume that if there is a need for energy, then it follows that there is a need for this proposed facility. That assumption does not consider building renewable or alternative energy projects to fill the need, whatever it may be. Finally, this section notes the region's reliance on hydroelectric power for its energy needs and the region's energy vulnerability due to reliance on one type of energy sources. However, the same type of over-reliance will occur in the region if it simply builds natural gas power plants. In order to truly lessen the region's reliance on either hydropower or gas plants, the region needs to invest and build renewable and alternative energy facilities. 19-8 contd

2.4.3 Alternative Power Generation Technologies

In discussing alternative power generation technologies, the DEIS takes an either/or approach to alternative technologies. What is not discussed, and therefore leaves the analysis incomplete, is a combination of technologies. For example, wind and solar together, or natural gas and a combination of wind and/or solar technologies may provide sufficient energy generation with greatly reduced environmental impacts. Integrating alternative power generation technologies could potentially reduce the environmental impacts of a single technology, diversify the generation portfolio, reduce reliance on a single technology, and potentially generate the same quantity of electricity. The failure to entertain such an integrated approach to alternative technologies renders this analysis incomplete. 19-9

2.4.4 Cooling System Alternatives

The document identifies both combination wet/dry cooling systems and air-cooled condenser as possible alternatives. In rejecting both of these alternatives, however, there are only general references to high capital costs and larger physical size. There is no data indicating the degree to which capital costs increase or the nature and extent of additional size requirements vis-à-vis the preferred alternative. In order for this section to have any real value there needs to be supporting information rather than mere conclusions. 19-10

2.4.5 Makeup Water Supply Alternatives

A list of five alternative water procurement methods is provided on page 2-41. However, there is no discussion of the environmental impacts/benefits of these alternatives. Nor is there any discussion as to why these alternatives were rejected. The lack of meaningful analysis renders this section useless to the reader. 19-11

Chapter 3 Existing Conditions, Impacts, and Mitigation Measures

3.2 Air Quality

Nonattainment Area Requirements for PM10

We again note here that the DEIS correctly states that the area has been designated serious nonattainment for PM10 by the U.S. Environmental Protection Agency. Thus, as the DEIS states, this project has a legal requirement to use LAER for PM10 offsets. As the DEIS states in section 1.8, an EPA decision on what constitutes LAER for this project has not been determined by EPA to date. 19-12

Hazardous Air Pollution Regulation

On pages 3.2-3 through 5 there is a discussion on hazardous air pollutants. Reference is made to the fact that EPA is intending to promulgate standards which would require that MACT technology be utilized by sources emitting hazardous air pollutants. The paragraph goes on to state that the Wallula project would be a major source of hazardous air pollutants, emitting more than 25 tons per year. There is, however, no discussion of what pollutants are referred too. If these are the same pollutants as the toxic air pollutants summarized in Table 3.2-5, an appropriate reference should be made. If not, the discussion needs to be expanded for further. 19-13

The section also refers to a recent EPA ruling that combined cycle gas power plants must conduct a case by case analysis to demonstrate that hazardous air pollutant emissions are reduced using MACT. The DEIS authors state that EPA guidance indicates that oxidation catalysts (which will be utilized by Wallula) satisfy MACT for volatile organic hazardous air pollutants such as formaldehyde. Has a MACT analysis been conducted for other hazardous air pollutants emitted by the project, and if so, what were the results of this analysis? 19-14

3.2.2.2 Operation and Maintenance

Generation Plant -- Emission Source and Emission Controls

This discussion focuses on the emission control technology that the applicant is proposing to use at the facility. The discussion is inadequate because it fails to set out a range of control technology alternatives that will be considered during the PSD process of determining what constitutes BACT for this project. While the technologies listed by the applicant may in the end represent BACT, a more thorough discussion of alternative technologies is necessary. As currently written, it appears as though the BACT determination has already occurred. 19-15

Reference is made to the use of aqueous ammonia in the SCR control system. As part of the SCR process some unreacted ammonia would exit the plant as ammonia "slip." There is no discussion of the collateral environmental impacts or impacts to local agriculture associated with ammonia "slip." 19-16

On page 3.2-8 reference is made to a list of features incorporated into the project that represent BACT. This is not accurate. The BACT determination is part of the PSD process and has not yet occurred for this project. Our understanding is that the Department of Ecology, under 19-17

contract from EFSEC, will evaluate the project and draft a PSD permit for EFSEC review and approval, subject to public comment and hearing. No BACT determination may be made until this process is completed. Reference is also made to PM10 LAER controls. It is unclear whether these controls are proposed by the project or have already been approved by EPA. 19-17 contd

On pages 3.2-10 and 11 is a discussion of nonattainment area emission offsets. As part of that discussion the DEIS states that the applicant proposes to use "*clean natural gas* as the only fuel for the combustion gas turbines and duct burners which helps minimize formation of particulates." What is meant by the term "clean natural gas"? Moreover, there is no discussion on a broader scale of the variability of emission rates due to fluctuations in the quality of natural gas. These fluctuations, particularly in the sulfur content, can significantly effect emission rates for a project. A more thorough discussion on natural gas quality vis-à-vis emission rates is needed. 19-18

Cooling Tower Plumes

As the DEIS notes, local agricultural growers have expressed concerns regarding the cooling tower plumes and various potential impacts to their crops. These concerns have also been raised with CFE. We note that while the DEIS utilizes a computer model to determine likely impacts to these growers, the conclusions from that model are couched in terms of "no significant impact" and/or "unlikely." These somewhat uncertain terms may not provide sufficient detail and analysis for local growers to evaluate the potential impacts of the facility on their crops. In addition, the DEIS does not seem to take into account the agricultural requirements of the various crops grown in the area. For example, is there variation in the sensitivity to humidity between alfalfa, hay and fruits? 19-19

3.2.4.2 Operation and Maintenance

Greenhouse Gas Emissions (page 3.2-23)

As the DEIS correctly notes, there is a legal requirement for proposed energy facilities to control GHG emissions. See also EFSEC's recent decision regarding the application for site certification of the proposed Sumas facility. Council Order 754 at pages 35-39. 19-20

The discussion in this section lacks even the most basic background on the relationship between greenhouse gas emissions and global warming. Nor is there any discussion on the potential impacts on the world environment that have been associated with global warming. 19-21

The DEIS states that "it is *uncertain* whether the applicant's proposal to provide no greenhouse gas mitigation satisfies the WAC regulation requiring the 'highest and best practicable treatment.'" The authors then proceed to list GHG mitigation programs/requirements that have been utilized by entities throughout the Northwest, including EFSEC. Given the existence of these GHG mitigation programs – and the applicants failure to propose anything comparable – there can be no uncertainty on this issue. In its application the applicant has not met the "highest and best practicable treatment standard" set forth in the EFSEC rules. 19-22

Since this DEIS was drafted, the applicant has negotiated settlements and/or potential settlements with intervenors and CFE. These settlement agreements include additional 19-23

mitigation measures that will to some extent offset greenhouse gas emissions from the facility. These additional mitigation measures, to the extent that they potentially offset greenhouse gas emissions, should be included in the final EIS for this project. 19-23 contd

Criteria Pollutants (BACT and LAER) (page 3.2-12 --24)

Reference is made to the fact that emission rates described in the air quality section are based on the applicants proposed emission controls contained in the PSD application. The PSD application, which contains a full BACT analysis, should be included as part of the FEIS. 19-24

3.3 Water Resources

On page 3.3.17, the third paragraph states that "the applicant has secured purchase and lease options for land and associated water rights . . ." The combined options would provide significantly more water rights than would be required by the Wallula Power Project. The exact rights to be acquired would be finalized once the water rights change protocol is completed with EFSEC and Ecology. *The applicant would exercise only those options that are necessary for the project."* This last sentence is confusing in light of other statements made in the DEIS that the net effect of the water rights transactions would be the creation of an instream flow benefit to the Walla Walla and Columbia rivers due to a reduction in withdrawals. If the applicant only plans to exercise options on water "necessary for the project" how will this result in a reduction in actual water withdrawals from current levels? This needs to be clarified. 19-25

Protocol for Water Rights Transfer Request - Background

On page 3.3-21 it states that "Ecology and the applicant intend to negotiate the transfer and change process early in the EFSEC application review process. Once finalized, the applicant and Ecology would provide a written stipulation agreement to EFSEC, and request that EFSEC approve the requested changes to the water rights or licenses under the option by the applicant for use at the facility." It is unclear why EFSEC rather than Ecology is serving as the final arbiter of the water rights transfers. The proposed method of approval may be unlawful given the issue of whether EFSEC has the legal authority to issue water rights or to approve of water right transfers. To date that debate has not been conclusively resolved. The DEIS should contain some discussion as to how the applicant and Ecology reached the conclusion that EFSEC could issue the water rights transfers in question. Furthermore, even assuming EFSEC has statutory authority to issue water rights and/or to approve of transfers, we question whether EFESC may do so without following the same procedure as Ecology would. For example, when Ecology renders a water right decision, notice must go out to other potentially affected users. It is unclear from the DEIS exactly what procedure EFSEC will use to issue or approve of these water right decisions. 19-26

Even more importantly, the report of examination, which is prepared by Ecology in conjunction with the requested changes, should have been included in this DEIS for public comment. That document most accurately reflects the impacts associated with the applicant's requested changes. Additionally, the report should show that the requested actions comport with Washington's water laws. At a minimum, the report should be included in the final EIS. 19-27

The statement that the "net effect of the water rights transaction and change approval process would be the creation of an in stream flow benefit to the Walla Walla River and Columbia River due to a reduction in actual water withdrawals from current levels" is not supported with any documentation. Please cite to a source supporting this conclusion. (Presumably this would be contained in the report of examination.) 19-28

Proposed Mitigation Program

On page 3.3–22, the DEIS characterizes environmental enhancement projects undertaken in order to satisfy the legal requirements to meet Ecology's expedited processing requirement as "mitigation." This characterization is incorrect. Mitigation, as that term is normally defined, is intended to alleviate or offset the specific impacts associated with a given project. The actions described in this section are legal requirements necessary to receive expedited processing under WAC 173-152-050(3). The section accurately states that such expedited processing is an Ecology requirement. CFE are pleased that the funds expended by the proponent to jump forward in the transfer line will go towards increased flows in the Walla Walla River. However, we reiterate that it is not accurate to refer to this legal requirement as mitigation. 19-29

Groundwater

On page 3.3-29 in the second paragraph there is a statement that all of the water uses by the project would be offset by the termination of current uses, through the transfer and purchase of existing rights. The next sentence states that cumulative impacts are evaluated in Section 3.17. This is a nonsequiter. The cumulative impacts discussed in Section 3.17 deal with the construction of multiple power generation projects currently under consideration or that may be constructed. Here, rather than a reference to section 3.17, what should be included in this paragraph is a discussion of the impacts associated with the transfer and purchase of the existing water rights for the Wallula Project. These transfers include: changes in point of withdrawal, change in place of use, and change in type of use. There is scant discussion on the impacts associated with these water rights changes. Again, the lack of data supporting these conclusory statements points to the need to include the report of examination for these various water rights and transfers. 19-30

The DEIS refers to design elements in the project that conserve water. Specifically there is a reference to the cooling tower water chemistry and its ability to accommodate 20 cycles of concentration, thus reducing the volume of cooling tower blowdown. The value of this design feature on groundwater conservation cannot be determined based upon then information provided. For example, what does the ability to accommodate 20 cycles mean on actual water usage? 19-31

3.4 Wetlands and Vegetation

On page 3.4-10 the purchase and transfer of water rights to enhance instream flows in the Walla Walla River as mitigation for the potential loss of habitat value is discussed. In order to assess the legitimacy and adequacy of this mitigation measure more information is needed. As currently written, the value of such mitigation can not be assessed. 19-32

Also, on page 3.4-10, the DEIS states that "the project is designed to avoid impacts on wetlands." Several pages later, however, it states that "indirect impacts to wetlands B, C, D, F, G, and H are expected as a result of stopping irrigation on the project site. The conversion of land from existing irrigated agriculture to power production would alter hydrological support to these wetlands, and it is likely their characteristics would change." Page 3.4-14. These two statements are inapposite and can not be reconciled. If the project ultimately will result in the elimination of the existing wetlands it cannot be said to have avoided impacts. The DEIS is insufficient in that it lacks any discussion of alternatives to maintain the existing wetlands. Project design features such as air cooling could potentially reduce the need for adjacent irrigation water, thereby limiting the indirect hydrology impacts to the existing wetlands. Assuming that air cooling is not a viable alternative, other mechanisms may be available to mitigate for the long term hydrologic impacts of the project. 19-33

3.8 Energy and Natural Resources

Availability of Natural Gas (page 3.8-4)

Much of the data contained in the section cites Wallula Generation (2001) as its source. We are therefore concerned that an independent analysis of this data by either BPA or EFSEC has not been done. Certainly, there are information/studies that do not reach the same conclusions as those provided in the DEIS regarding natural gas supply and pipeline capacity. A Washington State Office of Trade and Economic Development report entitled, *Convergence: Natural Gas and Electricity in Washington* (May 2001) (attached) expresses concern about the region's increased demand for gas and pipeline capacity. That report notes that the development of new natural gas supplies may not completely offset diminishing reserves, and that due to the convergence of the electricity and natural gas markets, both markets may be subject to extreme price volatility. Additional information and/or studies that address possible scenarios that could negatively effect the availability, deliverability, and price of natural gas to the project should be included in this analysis. 19-34

3.17 Cumulative Impacts

CFE agree with the DEIS that cumulative impacts "must be considered." Given the proliferation of proposals and the "boom/bust" nature of the energy market, it is critical to provide a thorough analysis on the environmental and human health impacts to Washington and the region caused by fossil fuel power plants. 19-35

3.17.2.1 Greenhouse Gas Emissions

In the discussion on recent research into global warming there is no discussion of alternative energy generation as an alternative to fossil fuel power projects. This section should include a discussion of alternative energy generation sources that would reduce the energy sector's contribution to GHG emissions. 19-36

Table 3.17 attempts to address the cumulative impacts associated with Northwest Power Plants. While the table provides some interesting information on the impacts of each facility, there is absolutely no analysis of the aggregate effects of these impacts. For example, the table lists the annual CO2 emissions for each facility. Taken separately these emission numbers do 19-37

not appear to be a major contributor to GHG emissions worldwide (see page 3.17-7). However, in the aggregate, these facilities may constitute a significant portion of U.S. and worldwide GHG emissions. Clearly these aggregate emissions would significantly increase the annual tonnage of GHG emissions in Washington and the region. It is the aggregate impacts that are relevant to a meaningful discussion on cumulative impacts, yet there is no discussion of this. Rather, following the table is a discussion on the emissions from the Wallula project alone. This completely sidesteps a meaningful cumulative impacts analysis. 19-37 contd

Also missing from the cumulative impacts discussion is what effect mitigation measures to offset or reduce GHG emissions may create. 19-38 Finally, there is also no discussion in the cumulative effects section on GHG regarding the effect of encouraging the development of renewable and/or alternative energy resources. 19-39

3.17.4 Gas Supply

Please refer to the comments contained in section 3.8 regarding natural gas supply, specifically the report prepared by the Washington State Office of Trade and Economic Development entitled, *Convergence: Natural Gas and Electricity in Washington* (May 2001). 19-40

In addition, there is no discussion on the impact that construction of multiple gas fired power plants will have on residential gas rates in Washington State. This is potentially a significant impact that should be discussed. 19-41

3.17.6 Natural Gas Pipelines

Again, please refer to the report prepared by the Washington State Office of Trade and Economic Development entitled, *Convergence: Natural Gas and Electricity in Washington* (May 2001). In addition, there is no discussion on the impact that limited pipeline capacity may have on residential natural gas rates. 19-42

Thank you for the opportunity to comment on the Wallula Power Project Draft Environmental Impact Statement. Should you have any questions please do not hesitate to contact us at (360) 586-6770.

Sincerely,

MICHAEL LUFKIN
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MICHAEL DUNNING
Assistant Attorneys General
Counsel for the Environment

MLD:bb
cc: Darrel Peeples
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Responses to Comment Submission 19,
Letter from Michael Lufkin, Ronald LaVigne, Michael Dunning, Washington State Counsel for the Environment

19-1. Please Chapter 1 of this Final EIS, Section 1.3.1 (Power Plant Purpose and Need).

19-2. Please see Chapter 1 of this Final EIS, Section 1.5.1.1 (Wallula Power Plant and Related Facilities).

19-3. We agree with this comment. Emission offsets to satisfy nonattainment area provisions are a legal requirement, not a NEPA/SEPA mitigation measure.

19-4. We agree with this comment. While the measures that the applicant has taken will be beneficial to instream flows in the Walla Walla River, they are not NEPA/SEPA mitigation measures.

19-5. The requested information has been added to Table 1-1 in Chapter 1 of this Final EIS.

19-6. Thank you for your comment.

19-7. The commentor is correct. EFSEC has issued a draft PSD permit and a draft Notice of Construction (NOC) permit for public comment according to the requirements of Chapter 173-400-171 Washington Administrative Code, prior to making any recommendation to the Governor. The Council will consider the draft PSD and NOC permits and the public comments received in its deliberative process that leads to a recommendation to the Governor. Should the Council recommend approval of the project to the Governor, the PSD permit attached to such a recommendation would only become final upon the Governor's approval of the project on behalf of the state of Washington and signature by the Environmental Protection Agency, Region 10.

19-8. Thank you for your comments about renewables and the boom and bust cycle of energy production. This project is proposed because of existing and projected future demands for energy. Whether or not it is built, and how much it operates, will depend on market forces including price, supply, and demand. Unlike a monopoly environment where resources had to meet regionally developed demand scenarios, a deregulated environment encourages competition and incentives and allows developers to take risks. Renewables are also competing in this environment, as are facilities licensed years ago and not built. The final test of need for this facility will be if it is built and operated sometime in the future.

19-9. The Northwest is underway in the development of a mix of technologies including wind, solar, distributed generation, regional power sales, fuel cells, and other sources. This project is one of those technologies. In its Business Plan EIS (DOE/EIS – 0183), Bonneville analyzed a variety of strategies for development of generation sources and adopted a strategy of developing a mix of projects for long-term stability of power. Bonneville's preferred alternative, the Market-Driven Strategy, identified 59% of new Bonneville power acquisitions would be from conservation, wind, or geothermal sources. Bonneville has not proposed to contract for the purchase of power from the Wallula Power Project. Wind generation turbines and conservation strategies that have been successfully implemented are already contributing to meeting regional power needs. There are proposals for geothermal, solar, and additional wind turbine capabilities in the area. It is not necessary for each individual generation project to propose a combination of power generation strategies.

19-10. Section 2.6 of the Application for Site Certification (Volume 1) compares in detail three systems of heat dissipation: (1) a wet mechanical-draft cooling tower, (2) a combination wet-dry cooling systems, and (3) an air-cooled condenser. In addition, Exhibit 2.6.2.4-1 of the ASC (Volume 2) presents the results of the study underlying the applicant's cooling technology decision. Please see the Application for additional information in response to your comment.

19-11. Section 2.4.6 of the Environmental Report (Wallula Generation LLC, August 2001) provides a description of the five makeup water supply alternatives that were not selected, along with the basis for their elimination from further consideration. Please see the Environmental Report for information in response to your comment.

19-12. The applicant's proposed BACT and LAER emission controls have not yet been approved. Section 3.2 has been updated to describe the status of review of the applicant's air quality permits by EFSEC and EPA. Please see Chapter 3 of this Final EIS for updated text.

19-13. Based on data provided in the application and reviewed, the power plant would not be a major source of hazardous air pollutants so the project would not be subject to MACT. Please see Chapter 3 of this Final EIS for updated text.

19-14. See response to comment 19-13.

19-15. Please see response to comment 19-12.

19-16. Section 3.2 has been updated to described secondary ammonium nitrate aerosol formed downwind during the wintertime as a result of the power plant's ammonia emissions. The assessment showed secondary ammonium nitrate particulate matter is apparently not a key environmental concern in eastern Washington. Although ammonium nitrate can be a major component of PM2.5 aerosol, the measured PM2.5 concentrations at the eastern Washington monitoring stations are well below the NAAQS limits. Please see Chapter 3 of this Final EIS for updated text.

19-17. Please see response to comment 19-12.

19-18. Section 3.2 has been revised to clarify that the power plant would use only natural gas delivered by commercial pipeline. Section 3.2 has also been updated to describe seasonal variation of sulfur content in the natural gas. Please see Chapter 3 of this Final EIS for updated text.

19-19. Section 3.2 has been updated with expanded modeling of cooling tower plume impacts to cherry orchards adjacent to the plant site. Please see Chapter 3 of this Final EIS for updated text.

19-20. Section 3.17 has been updated to reflect CFE's Settlement Agreement with the applicant regarding greenhouse gas offsets. Please see Chapter 3 of this Final EIS for updated text.

19-21. Thank you for your comment.

19-22. Section 3.17 has been updated to reflect CFE's Settlement Agreement with the applicant regarding greenhouse gas offsets. Please see Chapter 3 of this Final EIS for updated text.

19-23. Section 3.17 has been updated to reflect CFE's Settlement Agreement with the applicant regarding greenhouse gas offsets. Please see Chapter 3 of this Final EIS for updated text.

19-24. We do not agree with this comment. The PSD application has been cited and summarized in the Final EIS.

19-25. Currently, the water that would be used for the plant site is used for irrigation of the Boise Cascade fiber farm trees. Since the plant would use less water from these wells (and water right) than does the irrigation, there would be a net reduction in groundwater consumption from these wells. The text of the Final EIS Chapter 3 has been revised to clarify this change in use and resultant reduction in use of groundwater.

19-26. Neither chapter 80.50 RCW nor the state Water Codes (Chapters 90.03 and 90.44 RCW) expressly address jurisdiction over water rights in the context of an EFSEC site certification. However, to the extent that a water right permit is a license from the State of Washington necessary for plant operation, RCW 80.50.120 has been construed to provide that a site certification agreement (SCA) may stand in lieu of such a license.
RCW 80.50.120(3) provides:
(3) The issuance of a certification *shall be in lieu of any permit, certificate or similar document required by any department*, agency,…or political subdivision of this state, whether a member

of the council or not.

(Emphasis added.)

Based on this language, since a water right permit is a "permit…required by [a] department" of the state, EFSEC may issue a certification with conditions that stand in lieu of a water right permit or a transfer/change otherwise issued by Ecology. This rationale was adopted in a formal Opinion of the Office of the Attorney General, *see* AGO 1975 No. 10, and has provided the basis for past water use authorizations in site certification agreements.

In the case of Wallula Generation's application, the applicant holds options to purchase existing irrigation water right certificates that authorize water use at places other than the proposed site and for purposes other than industrial use. In order for the water under these certificates to be used for the proposed plant, the place of use, season of use, purpose of use, and points of withdrawal under these certificates must be changed. (An exception is water right permit G3-29640P, which may be used by Wallula Generation for power plant purposes without any further action by EFSEC.)

EFSEC's jurisdiction under chapter 80.50 RCW does not extend to allow it to change a water right certificate issued by Ecology. Rather, as discussed above, its jurisdiction extends to providing a water use authorization for an applicant within the confines of an SCA.

If the Council recommends approval of this proposal to the Governor, the Governor approves this project, and an SCA is issued to Wallula Generation, EFSEC will issue a water use authorization with such conditions as EFSEC deems appropriate. For guidance in this regard, EFSEC will consider the draft Reports of Examination that have been prepared by Ecology outlining the quantities of water that are available for change under the Water Codes, together with the conditions Ecology would attach if Ecology were effecting the change.

Although the irrigation certificates will not be changed by the SCA under this approach, the water available for change under the irrigation certificates is the water that will be authorized for use under the SCA, if issued. The irrigation certificates will then be superseded by the effect of the SCA authorization for the life of the SCA. *See* RCW 80.50.110(1); RCW 80.50.120(3). Upon termination of the SCA, the irrigation certificates will remain in force. To summarize, the SCA will overlay and supersede the irrigation certificates for the life of the SCA, providing for a water use authorization fully as effective as if the certificates had been changed by Ecology pursuant to the Water Codes. This approach harmonizes the authority of chapter 80.50 RCW with the Water Codes.

The draft Reports of Examination will be part of the adjudicative record. Members of the public who may be interested in water resource issues related to the Wallula Power Project will have the opportunity to provide comments to EFSEC at the public hearing that will be held in conjunction with the adjudicative hearing. Notice of such hearing will have been provided.

19-27. The Reports of Examination prepared by the Department of Ecology have been included as Appendix C of the Final EIS.

19-28. The Reports of Examination for each of the Boise Cascade wells have been provided in Appendix C of the Final EIS. These reports describe the changes in use, place of use and place of withdrawal, and indicate that there would be a reduction in water withdrawals from current levels and a resultant relinquishment of water. Because the gravel aquifer from which these wells withdraw groundwater is hydraulically connected to the Columbia River, a reduction in pumping would result in an increase in discharge to the river. The Reports of Examination are based in part on a hydrogeologic investigation performed by Pacific Groundwater Group. Please refer to the Application for Site Certification (Wallula Generation 2001) for details of that study.

19-29. Please see response to comment 19-4.

19-30. The Report of Examination for each water right that would be acquired for this project is provided in Appendix C of the Final EIS. These reports provide information on the impacts of

changing points of withdrawal, places of use, and type of use. The discussions of potential impacts to the gravel aquifer and the Saddle Mountain Basalt Aquifer in the EIS (Section 3.3.2.2) also address these water right changes in a general manner, rather than categorically in relation to change in point of withdrawal, place of use, and type of use.

19-31. An improved ability to recirculate water would result in substantial conservation of water over a system with less capacity to do so. Most of the cooling water used for the power plant would be recirculated. Only that water which evaporates or escapes as blowdown or drift would need to be replaced by pumping from the project wells. Once the water storage system has been filled, the pumpage requirement is estimated to range from about 3,500 to 7,900 gpm, depending on ambient temperature, with the greatest amount being required during hot summer days. This contrasts to the roughly 330,000 gallons of water that would be recirculating continuously through the cooling system. A thorough discussion of the water supply and treatment systems is provided in Section 2.5 of the Application for Site Certification (Wallula Generation 2001).

19-32. Section 3.4 of the Draft EIS has been revised to reflect that potential wetland habitat loss relating to project construction and operation is being mitigated through the applicant's provision of funding as stipulated in an agreement with Ecology. The applicant has provided funding enabling a third-party option agreement with Ecology (for enhancement of 145 acres of riparian habitats along the Walla Walla River) to be executed. A similar agreement was made with WDFW to protect wetlands. Please see Chapter 3 of this Final EIS for updated text.

19-33. You are correct, the project is designed to avoid construction impacts on wetlands. The applicant has shown a willingness to protect and seek alternatives to maintain the wetland complex located along the western edge of the project site (a designated Habitat Reserve Area). Proposed mitigation has been identified in a Settlement Agreement with the Washington Department of Fish and Wildlife for potential project impacts to wetlands and wildlife habitat value provided by those wetlands. As one of these mitigation measures, the applicant will install a staff gage in the wetland complex and regularly monitor wetland hydrology. The applicant will attempt to secure water for the purposes of providing and maintaining a minimum seasonal water level in the Habitat Reserve Area. If dewatering of the wetlands occurs, the applicant will investigate alternative mitigation options. Please see Chapter 3 of this Final EIS for updated text.

19-34. Information from the report mentioned in the comment has been incorporated into the EIS. Please see Sections 3.8 and 3.17 in Chapter 3 of this Final EIS.

19-35. See response to comment 19-9.

19-36. Section 3.17 has been updated to describe the applicant's negotiated environmental mitigation package that includes provisions to fund greenhouse gas research and greenhouse gas offset projects. Please see Chapter 3 of this Final EIS for updated text.

19-37. EFSEC believes the Draft EIS adequately addressed this comment. Table 3.17-3 showed that the greenhouse gas emissions from the combined proposed new power plants in Washington would be only a small fraction of the world's total emissions. Regardless, Section 3.17 has been updated to describe the applicant's negotiated mitigation environmental package that includes provisions to fund greenhouse gas research and greenhouse gas offset projects.

19-38. See response to comment 19-36.

19-39. See response to comment19-36.

19-40. Please see updates to Section 3.17 in Chapter 3 of this Final EIS.

19-41. Please see updates to Section 3.17 in Chapter 3 of this Final EIS.

19-42. Please see updates to Section 3.17 in Chapter 3 of this Final EIS.